

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MALIBU MEDIA, LLC,)	12-cv-2078
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN DOES 1, 13 and BRIAN)	
WHITE,)	Philadelphia, PA
)	June 10, 2013
Defendants.)	9:28 a.m.

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE MICHAEL M. BAYLSON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Field - The Court

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1 on the half copyright notice and its terms of use. So it
2 has -- everything on here is copyrighted.

3 BY THE COURT:

4 Q All right. Do you know what I mean by a 2257 notice?

5 A Yes, we have --

6 Q Where do you put that?

7 A We are compliant, and we put that on their website. It
8 says a 2257, and you can click it, and it gives the address
9 where the records are kept.

10 Q All right. You put that on the title page -- where the
11 cover -- title page of the video?

12 A The title -- no, it's on the website. I can -- I can
13 show you on my phone.

14 Q No, I don't -- you don't have to show me, just --

15 A Okay.

16 Q Okay.

17 A Yeah.

18 Q You don't put it on each video?

19 A It's not -- they're not videos like DVDs. They're
20 short. They're like 10 minutes.

21 Q Oh.

22 A They're vignettes.

23 Q Okay.

24 A And they're just offered on line, so it's not like a big
25 DVD with a --

Field - The Court

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1 Q Well, how -- what is the running length of your movies?
2 What -- what's the range:

3 A It's anywhere from 10 minutes to 20 minutes.

4 Q Okay. They're no -- not longer than that.

5 A No, they're not longer than that, and some are even are
6 even just like six or seven minutes.

7 They're really high production value. They're really
8 beautiful, and --

9 Q Okay.

10 A So it's -- and we do keep very -- we keep compliant U.S.
11 2257 records and --

12 Q Okay. All right.

13 MR. LIPSCOMB: Just a proffer for the record, Your
14 Honor. I

15 have seen them personally, and they have the -- a
16 newspaper here and the photo ID here, and that's one form of
17 the way that they keep them, and they also keep them -- the
18 way that their site works everything has to kind of cross
19 reference to them. It's a complex system, but I have seen
20 these physically. They have --

21 THE WITNESS: We actually have the model hold the
22 model release form. We have their -- hold two IDs, and 2257
23 actually only requests a copy of the ID, which I think they
24 should request more. They should request the girl holding the
25 IDs.

Field - The Court

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1 So I keep all of that on the database, and then I
2 also keep the compliant database for the U.S. 2257.

3 THE COURT: All right. Thank you.

4 MR. LIPSCOMB: And I know you're involved in that
5 case --

6 THE COURT: Yes.

7 MR. LIPSCOMB: -- right now which --

8 THE COURT: That's another case.

9 MR. LIPSCOMB: -- fairly amazing that two adult
10 cases --

11 THE COURT: It's completely coincidental.
12 Completely coincidental.

13 MR. LIPSCOMB: You're the adult -- adult judge this
14 week.

15 THE WITNESS: But you -- our movies, I'm sure
16 then -- you'd probably like them.

17 THE COURT: Okay. All right. Thank you.

18 THE WITNESS: Okay. Thank you.

19 THE COURT: Call your next witness.

20 MR. LIPSCOMB: Your Honor, I'd now like to call
21 Michael Patzer.

22 MICHAEL PATZER, PLAINTIFF'S WITNESS, SWORN

23 THE CLERK: Would you be seated, state your full
24 name and spell your last name for the record.

25 THE WITNESS: Michael Patzer, P-A-T-Z-E-R.

Patzner - Direct (Lip)

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1 A Correct.

2 Q And you said you start the logging process at the same
3 time.

4 A Yes.

5 Q Does IPP distribute pieces of data back into the
6 BitTorrent swarm?

7 A No, that's not possible.

8 Q Why is that not possible?

9 A Because we completely writ -- wrote the whole software by
10 scratch ourself. There's no such feature implemented what's
11 makes it possible to upload or distribute any data.

12 Q But doesn't BitTorrent work on a tit-for-tat basis?

13 A That's correct.

14 Q What is a tit-for-tat basis?

15 A It means that you have to upload data to be able to
16 download data.

17 Q But didn't you just tell me you're not uploading data?

18 A That's correct.

19 Q So how are you getting around the tit-for-tat?

20 A Because if you are new in the BitTorrent swarm and you
21 don't have any data, so the protocol, the BitTorrent protocol
22 has to support that if somebody new is joining the swarm, that
23 you still get some kind of data to be able to join.

24 THE COURT: Use the word "swarm?"

25 MS. FIELD: The swarm.